

# Constitution of Indiana, 1851\*

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1851

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## PREAMBLE

To the end that justice be established, public order maintained, and liberty perpetuated: We, the people of the State of Indiana, grateful to Almighty God for the free exercise of the right to choose our own form of government do ordain this Constitution.

## ARTICLE 1.

### BILL OF RIGHTS

SECTION 1. We declare, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness; that all power is inherent in the People; and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well-being. For the advancement of these ends, the People have, at all times, an indefeasible right to alter and reform their government.

SEC. 2. All men shall be secured in the natural right to worship Almighty God, according to the dictates of their own consciences.

SEC. 3. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

SEC. 4. No preference shall be given, by law, to any creed, religious society, or mode of worship; and no man shall be compelled to attend, erect, or support, any place of worship, or to maintain any ministry, against his consent.

SEC. 5. No religious test shall be required, as a qualification for any office of trust or profit.

SEC. 6. No money shall be drawn from the treasury, for the benefit of any religious or theological institution.

SEC. 7. No person shall be rendered incompetent as a witness, in consequence of his opinions on matters of religion.

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\* The Constitution of Indiana was drafted by a convention which assembled at Indianapolis on October 7, 1850, and adjourned on February 10, 1851. The electors were afforded the opportunity of voting on the ratification or rejection of the Constitution as a whole and on Article XIII relative to negroes and mulattoes. At the election held on August 4, 1851, the Constitution as a whole was ratified by a vote of 113,230 to 27,638, and Article XIII was ratified by a vote of 88,910 to 21,066. The Constitution became effective November 1, 1851.

SEC. 8. The mode of administering an oath or affirmation, shall be such as may be most consistent with, and binding upon, the conscience of the person, to whom such oath or affirmation may be administered.

SEC. 9. No law shall be passed, restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever; but for the abuse of that right, every person shall be responsible.

SEC. 10. In all prosecutions for libel, the truth of the matters alleged to be libelous may be given in justification.

SEC. 11. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search or seizure, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

SEC. 12. All courts shall be open; and every man, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, without delay.

SEC. 13. In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury, in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witness face to face, and to have compulsory process for obtaining witnesses in his favor.

SEC. 14. No person shall be put in jeopardy twice for the same offense. No person, in any criminal prosecution, shall be compelled to testify against himself.

SEC. 15. No person arrested or confined in jail, shall be treated with unnecessary rigor.

SEC. 16. Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishments shall not be inflicted. All penalties shall be proportioned to the nature of the offense.

SEC. 17. Offenses, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable, when the proof is evident, or the presumption strong.

SEC. 18. The penal code shall be founded on the principles of reformation, and not of vindictive justice.<sup>1</sup>

SEC. 19. In all criminal cases whatever, the jury shall have the right to determine the law and the facts.

SEC. 20. In all civil cases, the right of trial by jury shall remain inviolate.

1. The punishment of death is not in conflict with this section. *Driskill v. State*, 7 Ind. 338; *Rice v. State*, 7 Ind. 332. The indeterminate sentence law is valid and is an attempt to carry out the mandate of this section. *Miller v. State*, 149 Ind. 607.

SEC. 21. No man's particular services shall be demanded, without just compensation. No man's property shall be taken by law, without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.

SEC. 22. The privilege of the debtor to enjoy the necessary comforts of life, shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale, for the payment of any debt or liability hereafter contracted; and there shall be no imprisonment for debt, except in case of fraud.<sup>2</sup>

SEC. 23. The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens.

SEC. 24. No *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.<sup>3</sup>

SEC. 25. No law shall be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this Constitution.<sup>4</sup>

SEC. 26. The operation of the laws shall never be suspended, except by the authority of the General Assembly.

SEC. 27. The privilege of the writ of *habeas corpus* shall not be suspended, except in case of rebellion or invasion; and then, only if the public safety demand it.

SEC. 28. Treason against the State shall consist only in levying war against it, and in giving aid and comfort to its enemies.

SEC. 29. No person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or upon his confession in open court.

SEC. 30. No conviction shall work corruption of blood, or forfeiture of estate.

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2. If a debtor practices fraud to avoid payment of a debt, he may be imprisoned. *Baker v. State*, 109 Ind. 47. A judgment against a husband for failure to support his wife is not a debt within the meaning of this section. *Perry v. Pernet*, 165 Ind. 67.

3. An *ex post facto* law is one which makes an act unlawful which was lawful when committed, or which adds to the punishment for an act, or which increases the malignity of the crime, or renders a conviction easier. *Strong v. State*, 1 Blkf. 193; *Dinckerlocker v. Marsh*, 75 Ind. 548; *Davis v. State*, 152 Ind. 34. The phrase *ex post facto* relates to criminal laws only. *Andrews v. Russell*, 7 Blkf. 474; *Pittsburgh Ry. Co. v. Lighthouse*, 168 Ind. 438.

4. Laws can not be made to take effect upon a submission to a vote of the people. *Maize v. State*, 4 Ind. 342. But laws may be enacted which provide for the petition or vote by a certain number before the benefit of the law can be invoked. *Thompson v. Peru*, 29 Ind. 305; *Lafayette R. R. Co. v. Geiger*, 34 Ind. 185; *Groesch v. State*, 42 Ind. 547. Laws may be passed conferring on state boards the authority to issue rules which have the force of law. *Isenhour v. State*, 157 Ind. 517.

SEC. 31. No law shall restrain any of the inhabitants of the State from assembling together in a peaceable manner, to consult for their common good; nor from instructing their representatives; nor from applying to the General Assembly for redress of grievances.

SEC. 32. The people shall have a right to bear arms, for the defense of themselves and the State.<sup>5</sup>

SEC. 33. The military shall be kept in strict subordination to the civil power.

SEC. 34. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, but in a manner to be prescribed by law.

SEC. 35. The General Assembly shall not grant any title of nobility, nor confer hereditary distinctions.

SEC. 36. Emigration from the State shall not be prohibited.

SEC. 37. There shall be neither slavery, nor involuntary servitude, within the State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted. No indenture of any Negro or Mulatto, made and executed out of the bounds of the State, shall be valid within the State.<sup>6</sup>

## ARTICLE 2.

### SUFFRAGE AND ELECTION

SECTION 1. All elections shall be free and equal.

SEC. 2. In all elections not otherwise provided for by this Constitution, every citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election, shall be entitled to vote in the township or precinct where he or she may reside.<sup>7</sup>

5. Laws prohibiting the carrying of concealed weapons do not violate the provisions of this section giving the people the right to bear arms. *McIntyre v. State*, 170 Ind. 163.

6. For all practical purposes, this section is now obsolete.

7. This section has been amended twice. The first amendment was proposed by the General Assembly of 1877, re-adopted by the General Assembly of 1879, and voted on at the township election of April 5, 1880. The total number of votes cast at the township election was 380,771; the total number of votes cast in favor of the amendment was 169,479, and the total number of votes cast against the amendment was 152,363. In *State v. Swift*, 69 Ind. 505, decided at the May term, 1880, the Supreme Court held that the amendment had not been adopted because it had not received a majority of the votes cast at the election. Accordingly, the amendment was re-submitted to the voters at a special election held on March 14, 1881. There were 172,900 votes cast at the election, and 123,736 votes were cast in favor of the amendment and 45,975 votes were cast against it. On March 24, 1881, Governor Albert G. Porter issued his proclamation declaring the amendment in force. The present amendment was proposed by the General Assembly of 1919, re-adopted by the General Assembly of 1921, and submitted to a vote of the people at a special election held on September 6, 1921. There were 218,696 votes cast at the election,

SEC. 3. No soldier, seaman, or marine, in the army or navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State, in consequence of having been stationed within the same; nor shall any such soldier, seaman, or marine, have the right to vote.

SEC. 4. No person shall be deemed to have lost his residence in the State, by reason of his absence, either on business of this State or of the United States.

SEC. 5 [Stricken out by constitutional amendment of March 24, 1881].<sup>8</sup>

SEC. 6. Every person shall be disqualified from holding office, during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward, to procure his election.

SEC. 7. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

SEC. 8. The General Assembly shall have power to deprive of the right of suffrage, and to render ineligible, any person convicted of an infamous crime.

SEC. 9. No person holding a lucrative office or appointment under the United States or under this State, shall be eligible to a seat in

and 130,242 votes were cast in favor of the amendment and 80,574 votes were cast against it. On September 13, 1921, Governor Warren T. McCray issued his proclamation declaring the amendment in force. As originally adopted, this section restricted the right of suffrage to white male citizens and prescribed a residence qualification of one year in the United States and six months in the state. The amendment of 1881 struck out the word "white" and thus conferred the right of suffrage on male negro citizens; and it also prescribed a residence qualification of 60 days in a township and 30 days in a ward or precinct, and it authorized the legislature to require voters to register. The amendment of 1921 conferred full suffrage on women, restricted the right to vote to native born or fully naturalized citizens, and eliminated the provision relative to the registration of voters.

The legislature has no authority to change the qualifications of voters as fixed by the Constitution. *Morris v. Powell*, 125 Ind. 281; *State v. Shanks*, 178 Ind. 230. A primary election is not an "election" as contemplated in this section of the Constitution and accordingly additional qualifications for voters may be prescribed. *Kelso v. Cook*, 184 Ind. 173.

8. As adopted in 1851, Sec. 5 provided that "No Negro or Mulatto shall have the right of suffrage." The amendment which struck this section out of the Constitution was proposed by the General Assembly of 1877, re-adopted by the General Assembly of 1879, and voted on at the township election of April 5, 1880. The total number of votes cast at the township election was 380,771; the total number of votes cast in favor of the amendment was 177,542, and the total number of votes cast against the amendment was 139,002. In *State v. Swift*, 69 Ind. 505, decided at the May term, 1880, the Supreme Court held that the amendment had not been adopted because it had not received a majority of the votes cast at the election. Accordingly, the amendment was re-submitted to the voters at a special election held on March 14, 1881. There were 172,900 votes cast at the election, and 124,952 votes were cast in favor of the amendment and 42,896 votes cast against it. On March 24, 1881, Governor Albert G. Porter issued his proclamation declaring the amendment in force.



the General Assembly; nor shall any person hold more than one lucrative office at the same time, except as in this Constitution expressly permitted: *Provided*, That offices in the militia to which there is attached no annual salary, and the office of Deputy Postmaster where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative; *And provided, also*, That counties containing less than one thousand polls, may confer the office of Clerk, Recorder, and Auditor, or any two of said offices, upon the same person.<sup>9</sup>

SEC. 10. No person who may hereafter be a collector or holder of public moneys, shall be eligible to any office of trust or profit, until he shall have accounted for, and paid over, according to law, all sums for which he may be liable.

SEC. 11. In all cases in which it is provided, that an office shall not be filled by the same person more than a certain number of years continuously, an appointment *pro tempore* shall not be reckoned a part of that term.

SEC. 12. In all cases, except treason, felony, and breach of the peace, electors shall be free from arrest, in going to elections, during their attendance there, and in returning from the same.

SEC. 13. All elections by the People shall be by ballot; and all elections by the General Assembly, or by either branch thereof, shall be *viva voce*.<sup>10</sup>

SEC. 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law: *Provided*, That the General Assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and may also provide for the registration of persons entitled to vote. In providing for the registration of persons entitled to vote the General Assembly shall have power to classify the several counties, townships, cities, and towns of the state into classes, and to enact laws prescribing a uniform method of registration in any or all of such classes.<sup>11</sup>

9. The following offices have been held to be lucrative: County recorder, county commissioner, *Dailey v. State*, 8 Blkf. 329; township trustee, road supervisor, *Creighton v. Piper*, 14 Ind. 182; Bishop v. State, 149 Ind. 223; Colonel of Volunteers, reporter of Supreme Court, *Kerr v. Jones*, 19 Ind. 351; mayors of cities, *Howard v. Shoemaker*, 35 Ind. 111; school trustees and trustees of the state benevolent institutions, *Chambers v. State*, 127 Ind. 365.

10. This section, requiring that all elections shall be by ballot, does not prevent the use of voting machines. *Spickerman v. Goddard*, 182 Ind. 523.

11. This amendment is probably in force by virtue of the ruling of the Supreme Court in the case of *In re Todd*, 208 Ind. 163. As adopted in 1851, section 14 provides that "All general elections shall be held on the second Tuesday in October." The General Assembly of 1877 proposed the following amendment: "All general elections shall be held on the first Tuesday after the first Monday in November, but township elections may be held at such time as may be provided by law: *Provided*, That the General Assembly may provide by law for the election of all Judges of courts of general and appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and shall

## ARTICLE 3.

## DISTRIBUTION OF POWERS.

SECTION 1. The powers of the Government are divided into three separate departments: The Legislative, the Executive including the Administrative, and the Judicial; and no person, charged with official duties under one of these departments, shall exercise any of the functions of another, except as in this Constitution expressly provided.<sup>12</sup>

## ARTICLE 4.

## LEGISLATIVE.

SECTION 1. The Legislative authority of the State shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives. The style of every law shall be: "Be it enacted by the General Assembly of the State of Indiana"; and no law shall be enacted, except by bill.<sup>13</sup>

SEC. 2. The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors

also provide for the registration of all persons entitled to vote." This amendment was re-adopted by the General Assembly of 1879, and voted on at the township election of April 5, 1880. The total number of votes cast in favor of the amendment was 174,400, and the total number of votes cast against the amendment was 144,812. In *State v. Swift*, 69 Ind. 505, decided at the May term, 1880, the Supreme Court held that the amendment had not been adopted because it had not received a majority of the votes cast at the election. Accordingly, the amendment was re-submitted to the voters at a special election held on March 14, 1881. There were 172,900 votes cast at the election and 128,038 votes were cast in favor of the amendment and 40,163 votes were cast against it. On March 24, 1881, Governor Albert G. Porter issued his proclamation declaring the amendment in force.

The present amendment to this section was proposed by the General Assembly of 1923 and re-adopted by the General Assembly of 1925. It was submitted to the voters at the general election held on November 2, 1926. The total number of votes cast at the general election of 1926 was 1,052,994; the total number of votes cast in favor of the amendment was 198,579; and the total number of votes cast against the amendment was 184,684.

12. This is the famous "separation of powers" section of the Constitution. The three departments of government are equal, co-ordinate and independent. *Lafayette R. R. Co. v. Geiger*, 34 Ind. 185. One department of the government can not inquire into the motives controlling another department. *Wright v. Defrees*, 8 Ind. 298; *McCulloch v. State*, 11 Ind. 424. The legislature alone has power to make, sanction, suspend or give effect to laws. *Malze v. State*, 4 Ind. 342. The construction of statutes is a judicial power and can not be exercised by the legislature. *Guckien v. Rothrock*, 137 Ind. 355. The governor can not be compelled by mandate to perform an official duty. *Hovey v. State*, 127 Ind. 588.

13. The legislative authority of the General Assembly is supreme and sovereign, subject only to the restraints imposed thereon by the State and Federal Constitutions and laws and treaties passed and made in pursuance thereof. *Lafayette R. R. Co. v. Geiger*, 34 Ind. 185; *Hanly v. Sims*, 175 Ind. 345; *Carr v. State*, 175 Ind. 241. Laws must be enacted by bill and the style must be: "Be it enacted by the General Assembly of the State of Indiana." Money can not be appropriated from the state treasury by a joint resolution, but the legislative will may in some cases be expressed by a joint resolution. *May v. Rice*, 91 Ind. 546; *State v. Bailey*, 16 Ind. 46.

of the respective counties or districts, into which the State may, from time to time, be divided.<sup>14</sup>

SEC. 3. Senators shall be elected for the term of four years, and Representatives for the term of two years, from the day next after their general election; *Provided however*, That the Senators elect, at the second meeting of the General Assembly under this Constitution, shall be divided, by lot, into two equal classes, as nearly as may be; and the seats of Senators of the first class shall be vacated at the expiration of two years, and those of the second class, at the expiration of four years; so that one-half, as nearly as possible, shall be chosen biennially forever thereafter. And in case of increase in the number of Senators, they shall be so annexed, by lot, to one or the other of the two classes, as to keep them as nearly equal as practicable.

SEC. 4. The General Assembly shall, at its second session after the adoption of this Constitution, and every sixth year thereafter, cause an enumeration to be made of all the male inhabitants over the age of twenty-one years.<sup>15</sup>

SEC. 5. The number of Senators and Representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of male inhabitants, above twenty-one years of age, in each: *Provided*, That the first and second elections of members of the General Assembly, under this Constitution, shall be according to the apportionment last made by the General Assembly, before the adoption of this Constitution.<sup>15</sup>

SEC. 6. A Senatorial or Representative District, where more than one county shall constitute a district, shall be composed of contiguous counties; and no county, for Senatorial apportionment, shall ever be divided.

SEC. 7. No person shall be a Senator or a Representative who, at the time of his election, is not a citizen of the United States; nor any one who has not been, for two years next preceding his election, an

14. In 1851 the number of senators was fixed at 50 and the number of representatives at 100 and the number has been continued on that basis ever since.

15. As adopted in 1851, sec. 4 and sec. 5 provided for enumeration and apportionment on the basis of the number of white male voters. The amendment which struck out the word "white" was proposed by the General Assembly of 1877, re-adopted by the General Assembly of 1879, and voted on at the township election of April 5, 1880. The total number of votes cast at the township election was 380,771; the total number of votes cast in favor of the amendment was 176,320, the total number of votes cast against the amendment was 136,279. In *State v. Swift*, 69 Ind. 505, decided at the May term, 1880, the Supreme Court held that the amendment had not been adopted because it had not received a majority of the votes cast at the election. Accordingly, the amendment was re-submitted to the voters at a special election held on March 14, 1881. There were 172,900 votes cast at the election, and 125,170 votes were cast in favor of the amendment and 42,162 votes were cast against it. On March 24, 1881, Governor Albert G. Porter issued his proclamation declaring the amendment in force.

The last enumeration of voters was made in 1931 and disclosed that there were 865,001 white male voters and 25,892 colored male voters in the state. On the basis



inhabitant of this State, and, for one year next preceding his election, an inhabitant of the county or district, whence he may be chosen. Senators shall be at least twenty-five, and Representatives at least twenty-one years of age.

SEC. 8. Senators and Representatives, in all cases except treason, felony, and breach of the peace, shall be privileged from arrest, during the session of the General Assembly, and in going to and returning from the same; and shall not be subject to any civil process, during the session of the General Assembly, nor during the fifteen days next before the commencement thereof. For any speech or debate in either House, a member shall not be questioned in any other place.

SEC. 9. The sessions of the General Assembly shall be held biennially at the capital of the State, commencing on the Thursday next after the first Monday of January, in the year one thousand eight hundred and fifty-three, and on the same day of every second year thereafter, unless a different day or place shall have been appointed by law. But if, in the opinion of the Governor, the public welfare shall require it, he may, at any time by proclamation, call a special session.<sup>16</sup>

SEC. 10. Each House, when assembled, shall choose its own officers, the President of the Senate excepted; judge the elections, qualifications and returns of its own members; determine its rules of proceeding, and sit upon its own adjournment. But neither House shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which it may be sitting.<sup>17</sup>

SEC. 11. Two-thirds of each House shall constitute a quorum to do business; but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. A quorum being in attendance, if either House fail to effect an organization within the first five days thereafter, the members of the House so failing, shall be entitled to no compensation, from the end of the said five days, until an organization shall have been effected.<sup>18</sup>

SEC. 12. Each House shall keep a journal of its proceedings, and publish the same. The yeas and nays, on any question, shall, at the

of the enumeration so made, the state should have been reapportioned by the Legislature of 1933.

It is the duty of the courts to decide whether an apportionment act complies with the requirements of the Constitution. The legislature can enact only one apportionment law under each enumeration, but if the law is held invalid, a valid apportionment law may be enacted. *Parker v. State*, 133 Ind. 178; *Denney v. State*, 144 Ind. 503.

16. The legislative power of the General Assembly convened in special session is as unlimited as during a regular session. *Woessner v. Bullock*, 176 Ind. 166.

17. The officers of the Senate, in addition to the Lieutenant-Governor, who is ex-officio President of the Senate, are a President Pro Tem., Principal Secretary and Principal Doorkeeper. The officers of the House are a Speaker, Chief Clerk, Assistant Clerk and Doorkeeper. The rules of the House and Senate are very elaborate and are printed separately during each session of the legislature.

18. A quorum of the House is 67 members and a quorum of the Senate is 34 members.

request of any two members, be entered, together with the names of the members demanding the same, on the journal; *Provided*, That on a motion to adjourn, it shall require one-tenth of the members present to order the yeas and nays.

SEC. 13. The doors of each House, and of Committees of the Whole, shall be kept open, except in such cases, as, in the opinion of either House, may require secrecy.

SEC. 14. Either House may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

SEC. 15. Either House, during its session, may punish, by imprisonment, any person not a member, who shall have been guilty of disrespect to the House, by disorderly or contemptuous behavior, in its presence; but such imprisonment shall not, in any one time, exceed twenty-four hours.

SEC. 16. Each House shall have all powers necessary for a branch of the Legislative department of a free and independent State.

SEC. 17. Bills may originate in either House, but may be amended or rejected in the other; except that bills for raising revenue shall originate in the House of Representatives.<sup>19</sup>

SEC. 18. Every bill shall be read, by sections, on three several days, in each House; unless, in case of emergency, two-thirds of the House where such bill may be depending, shall, by a vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill, by sections, on its final passage, shall, in no case, be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.<sup>20</sup>

SEC. 19. Every act shall embrace but one subject and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.<sup>21</sup>

SEC. 20. Every act and joint resolution shall be plainly worded, avoiding as far as practicable, the use of technical terms.

19. Under this provision of the Constitution, all tax bills and bills to appropriate money for the maintenance of the state government and its institutions originate in the House.

20. If a law is signed by the presiding officers of the two Houses, the courts will not inquire whether it was properly passed. *Evans v. Browne*, 30 Ind. 514; *Bender v. State*, 53 Ind. 254; *Western Union Co. v. Taggart*, 141 Ind. 281.

21. Every act must have a title and designate a single subject, but the title should not express the object or purpose of the act, but the means by which it is to be accomplished. *Indiana Ry. Co. v. Potts*, 7 Ind. 681. The term "subject" means the thing about which the legislation is had and the term "matters" refers to the incidents or secondary things necessary to provide for the enforcement of the act. *Board of Com'rs. v. Scanlan*, 178 Ind. 142.

SEC. 21. No act shall ever be revised or amended by mere reference to its title; but the act revised, or section amended, shall be set forth and published at full length.<sup>22</sup>

SEC. 22. The General Assembly shall not pass local or special laws, in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of Justices of the Peace and of Constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

For laying out, opening and working on highways, and for the election or appointment of supervisors;

Vacating roads, town plats, streets, alleys and public squares;

Summoning and empaneling grand and petit juries, and providing for their compensation;

Regulating county and township business;

Regulating the election of county and township officers and their compensation;

For the assessment and collection of taxes for State, county, township or road purposes;

Providing for supporting common schools, and for the preservation of school funds;

In relation to fees or salaries: except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required;<sup>23</sup>

22. In amending a statute, the title of the act to be amended should be referred to by setting it out in the title of the amendatory act and the section as amended should be set forth and published at full length. *Mankin v. Penn. Co.*, 160 Ind. 447; *Hendershot v. State*, 162 Ind. 69. In the amendment of an act, the old act or section need not be set out, but the act or section as amended should be set forth. *Greencastle Co. v. State*, 28 Ind. 382; *Draper v. Falley*, 33 Ind. 465.

23. As adopted in 1851, this section prohibited the passage of local and special laws in relation to fees and salaries. It was amended in 1881 to provide that the salaries of public officials may be graded according to population and the necessary services required. The amendment was proposed by the General Assembly of 1877, re-adopted by the General Assembly of 1879, and voted on at the township election of April 5, 1880. The total number of votes cast at the township election was 380,771; the total number of votes cast in favor of the amendment was 181,887, and the total number of votes cast against the amendment was 136,177. In *State v. Swift*, 69 Ind. 505, decided at the May term, 1880, the Supreme Court held that the amendment had not been adopted because it had not received a majority of the votes cast at the election. Accordingly, the amendment was re-submitted to the voters at a special election held on March 14, 1881. There were 172,900 votes cast at the election and 128,731 votes were cast in favor of the amendment and 38,345 votes were cast against it. On March 24, 1881, Governor Albert G. Porter issued his proclamation declaring the amendment in force.

Acts creating inferior courts are not invalid as being local or special. *Woods v. McCay*, 144 Ind. 316; *Bearbeyne v. Greenwald*, 186 Ind. 321; *Stocking v. State*, 7 Ind. 326; *Eitel v. State*, 33 Ind. 201.

Acts may be passed providing for the classification of cities if they are so worded that any city on attaining the requisite population will come under the law. *Bumb v. City of Evansville*, 168 Ind. 272.

In relation to interest on money;

Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting;

Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.

SEC. 23. In all the cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.<sup>24</sup>

SEC. 24. Provision may be made, by general law, for bringing suit against the State, as to all liabilities originating after the adoption of this Constitution; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.<sup>25</sup>

SEC. 25. A majority of all the members elected to each House, shall be necessary to pass every bill or joint resolution; and all bills and joint resolutions so passed, shall be signed by the Presiding Officers of the respective Houses.<sup>26</sup>

SEC. 26. Any member of either House shall have the right to protest, and to have his protest, with his reasons for dissent, entered on the journal.

SEC. 27. Every statute shall be a public law, unless otherwise declared in the statute itself.

SEC. 28. No act shall take effect, until the same shall have been published and circulated in the several counties of the State, by authority, except in case of emergency; which emergency shall be declared in the preamble, or in the body, of the law.<sup>27</sup>

SEC. 29. The members of the General Assembly shall receive for their services, a compensation to be fixed by law; but no increase of

24. Under the former decisions of the Supreme Court, it was held that the legislature alone has authority to determine whether a law can be made general or whether a local law is necessary. *Gentile v. State*, 29 Ind. 409; *Wiley v. Bluffton*, 111 Ind. 152; *State v. Kolsem*, 130 Ind. 434; *Smith v. Indpls. St. Ry. Co.*, 158 Ind. 425; *School City of Marion v. Forrest*, 168 Ind. 94; *Crist v. Molony*, 187 Ind. 614. More recently, however, the Supreme Court has held that the question whether a general law can be made applicable is subject to judicial review. *Heckler v. Conter*, 206 Ind. 376.

25. Suits against the state are authorized by the act of 1889 and are brought in the Superior Court of Marion County and the issue is tried by all the judges sitting together without a jury.

26. It requires 51 votes in the House and 26 votes in the Senate to pass a bill. The Speaker of the House signs a bill first, the President of the Senate second, and the Governor last.

27. Acts which have an emergency clause become effective as soon as they are signed by the Governor. Acts which do not contain an emergency clause become effective when they are distributed to every county in the state and when the Governor has issued his proclamation. *Mark v. State*, 16 Ind. 98; *Cain v. Goda*, 84 Ind. 209; *Jones v. Cavins*, 4 Ind. 305; *State v. Indiana Board*, 155 Ind. 414; *Sudbury v. Board*, 157 Ind. 466; *State v. Williams*, 173 Ind. 414.



compensation shall take effect during the session at which such increase may be made. No session of the General Assembly, except the first under this Constitution, shall extend beyond the term of sixty-one days, nor any special session beyond the term of forty days.<sup>28</sup>

SEC. 30. No Senator or Representative shall, during the term for which he may have been elected, be eligible to any office, the election to which is vested in the General Assembly; nor shall he be appointed to any civil office of profit, which shall have been created, or the emoluments of which shall have been increased, during such term; but this latter provision shall not be construed to apply to any office elective by the People.

## ARTICLE 5.

### EXECUTIVE.

SECTION 1. The executive power of the State shall be vested in a Governor. He shall hold his office during four years, and shall not be eligible more than four years, in any period of eight years.

SEC. 2. There shall be a Lieutenant-Governor, who shall hold his office during four years.

SEC. 3. The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the General Assembly.

SEC. 4. In voting for Governor and Lieutenant-Governor, the electors shall designate, for whom they vote as Governor, and for whom as Lieutenant-Governor. The returns of every election for Governor and Lieutenant-Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.

SEC. 5. The persons, respectively, having the highest number of votes for Governor and Lieutenant-Governor, shall be elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of the said persons Governor or Lieutenant-Governor, as the case may be.

SEC. 6. Contested elections for Governor or Lieutenant-Governor, shall be determined by the General Assembly, in such manner as may be prescribed by law.

SEC. 7. No person shall be eligible to the office of Governor or Lieutenant-Governor, who shall not have been five years a citizen of the United States, and also a resident of the State of Indiana during the five years next preceding his election; nor shall any person be eligible

<sup>28</sup>. The members of the General Assembly receive \$10 per day and 20 cents per mile for a round trip from their homes and return. The term of 61 days for a regular session and 40 days for a special session includes all Sundays and holidays intervening.

to either of the said offices, who shall not have attained the age of thirty years.

SEC. 8. No member of Congress, or person holding any office under the United States or under this State, shall fill the office of Governor or Lieutenant-Governor.

SEC. 9. The official term of the Governor and Lieutenant-Governor shall commence on the second Monday of January, in the year one thousand eight hundred and fifty-three; and on the same day every fourth year thereafter.

SEC. 10. In case of the removal of the Governor from office, or of his death, resignation, or inability to discharge the duties of the office, the same shall devolve on the Lieutenant-Governor; and the General Assembly shall, by law, provide for the case of removal from office, death, resignation, or inability, both of the Governor and Lieutenant-Governor, declaring what officer shall then act as Governor; and such officer shall act accordingly, until the disability be removed or a Governor be elected.<sup>29</sup>

SEC. 11. Whenever the Lieutenant-Governor shall act as Governor, or shall be unable to attend as President of the Senate, the Senate shall elect one of its own members as President for the occasion.

SEC. 12. The Governor shall be commander-in-chief of the military and naval forces, and may call out such forces, to execute the laws, or to suppress insurrection, or to repel invasion.

SEC. 13. He shall, from time to time, give to the General Assembly information touching the condition of the State, and recommend such measures as he shall judge to be expedient.<sup>30</sup>

SEC. 14. Every bill which shall have passed the General Assembly, shall be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the House in which it shall have originated; which House shall enter the objections, at large, upon its journals, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that House shall agree to pass the bill, it shall be sent, with the Governor's objections, to the other House, by which it shall likewise be reconsidered; and, if approved by a majority of all the members elected to that House, it shall be a law. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law, without his signature, unless the general adjournment shall prevent its return; in which case it shall be a law,

29. In case of the removal, death, resignation or inability of both the Governor and Lieutenant-Governor, the President of the Senate acts as Governor until the vacancy is filled.

30. This is known as the Governor's message. The regular message is read to the two houses of the General Assembly, convened in joint session, shortly after the convening of any regular or special session, but special messages may be submitted at any time.

unless the Governor, within five days next after such adjournment, shall file such bill, with his objections thereto, in the office of Secretary of State; who shall lay the same before the General Assembly at its next session, in like manner as if it had been returned by the Governor. But no bill shall be presented to the Governor within two days next previous to the final adjournment of the General Assembly.<sup>31</sup>

SEC. 15. The Governor shall transact all necessary business with the officers of government, and may require information in writing from the officers of the administrative department, upon any subject relating to the duties of their respective offices.

SEC. 16. He shall take care that the laws be faithfully executed.

SEC. 17. He shall have the power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the General Assembly, at its next meeting; when the General Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the General Assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted: *Provided, however,* That the General Assembly may, by law, constitute a council to be composed of officers of State, without whose advice and consent the Governor shall not have power to grant pardons, in any case, except such as may, by law, be left to his sole power.<sup>32</sup>

SEC. 18. When, during a recess of the General Assembly, a vacancy shall happen in any office, the appointment to which is vested in the

31. If a bill is passed over the veto of the Governor, it need not be again presented to him. *State v. Denny*, 118 Ind. 449. If a bill is presented to the Governor within the two days prior to adjournment and the Governor vetoes it within the five days after adjournment of the legislature, the bill must be presented to the next regular or special session of the legislature held thereafter. *Woessner v. Bullock*, 176 Ind. 166. When the Governor has filed a bill in the office of the Secretary of State, he can not afterwards withdraw or file objection to the bill. *Tarlton v. Peggs*, 18 Ind. 24. If a bill contains an emergency clause and is not approved by the Governor, it will become a law on the expiration of the time given by the Constitution for the Governor to veto it. *State v. Wheeler*, 172 Ind. 578; *Shutt v. State*, 173 Ind. 689; *Stalcup v. Dixon*, 136 Ind. 9. The two days within which bills cannot be presented to the Governor include Sunday. *State v. Grant* Superior Court, 202 Ind. 197.

32. The commission on clemency, created in 1933, reviews all pardon cases and recommends its conclusions to the Governor. The Governor has exclusive power, under rules prescribed by law, to grant reprieves, commutations and pardons, and to remit fines and forfeitures. *Butler v. State*, 97 Ind. 373. The power given to certain officers under the indeterminate sentence law to shorten the time of service of prisoners is not an exercise of the pardoning power. *Miller v. State*, 149 Ind. 607. Conditional pardons or paroles may be granted and the prisoner may be re-committed for a violation of the condition. *Woodward v. Murdock*, 124 Ind. 439.

General Assembly; or when, at any time, a vacancy shall have occurred in any other State office, or in the office of Judge of any court; the Governor shall fill such vacancy, by appointment, which shall expire, when a successor shall have been elected and qualified.

SEC. 19. He shall issue writs of election to fill such vacancies as may have occurred in the General Assembly.

SEC. 20. Should the seat of government become dangerous from disease or a common enemy, he may convene the General Assembly at any other place.

SEC. 21. The Lieutenant-Governor shall, by virtue of his office, be President of the Senate; have a right, when in committee of the whole, to join in debate, and to vote on all subjects; and, whenever the Senate shall be equally divided, he shall give the casting vote.

SEC. 22. The Governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished, during the term for which he shall have been elected.<sup>33</sup>

SEC. 23. The Lieutenant-Governor, while he shall act as President of the Senate, shall receive, for his services, the same compensation as the Speaker of the House of Representatives; and any person, acting as Governor, shall receive the compensation attached to the office of Governor.<sup>34</sup>

SEC. 24. Neither the Governor nor Lieutenant-Governor shall be eligible to any other office, during the term for which he shall have been elected.

## ARTICLE 6.

### ADMINISTRATIVE.

SECTION 1. There shall be elected, by the voters of the State, a Secretary, an Auditor and a Treasurer of State, who shall, severally, hold their offices for two years. They shall perform such duties as may be enjoined by law; and no person shall be eligible to either of said offices, more than four years in any period of six years.

SEC. 2. There shall be elected, in each county by the voters thereof, at the time of holding general elections, a Clerk of the Circuit Court, Auditor, Recorder, Treasurer, Sheriff, Coroner, and Surveyor. The Clerk, Auditor and Recorder, shall continue in office four years; and no person shall be eligible to the office of Clerk, Recorder, or Auditor more than eight years in any period of twelve years. The Treasurer, Sheriff, Coroner, and Surveyor, shall continue in office two years; and no person

33. The salary of the Governor, as fixed in 1903, is \$8,000 per year.

34. The salary of the Lieutenant-Governor, as fixed in 1933, is \$6,000 per year in addition to his compensation as President of the Senate, which is \$12 per day during the continuance of the session.



shall be eligible to the office of Treasurer or Sheriff, more than four years in any period of six years.<sup>35</sup>

SEC. 3. Such other county and township officers as may be necessary, shall be elected, or appointed, in such manner as may be prescribed by law.<sup>36</sup>

SEC. 4. No person shall be elected, or appointed, as a county officer, who shall not be an elector of the county; nor any one who shall not have been an inhabitant thereof, during one year next preceding his appointment, if the county shall have been so long organized; but if the county shall not have been so long organized, then within the limits of the county or counties, out of which the same shall have been taken.

SEC. 5. The Governor, and the Secretary, Auditor, and Treasurer of State, shall, severally, reside and keep the public records, books, and papers, in any manner relating to their respective offices, at the seat of government.

SEC. 6. All county, township, and town officers, shall reside within their respective counties, townships, and towns; and shall keep their respective offices at such places therein, and perform such duties, as may be directed by law.

SEC. 7. All State officers shall, for crime, incapacity, or negligence, be liable to be removed from office, either by impeachment by the House of Representatives, to be tried by the Senate, or by a joint resolution of the General Assembly; two-thirds of the members elected to each branch voting, in either case, therefor.

SEC. 8. All State, county, township, and town officers, may be impeached, or removed from office, in such manner as may be prescribed by law.<sup>37</sup>

SEC. 9. Vacancies in county, township, and town offices, shall be filled in such manner as may be prescribed by law.

SEC. 10. The General Assembly may confer upon the boards doing county business in the several counties, powers of a local, administrative character.

35. The legislature can neither lengthen nor shorten the term of an office that is fixed by the Constitution. *Howard v. State*, 10 Ind. 99. Persons elected to fill vacancies in the office of clerk of the circuit court hold their offices for four years. *Governor v. Nelson*, 6 Ind. 496. When the term of a county officer is fixed by the Constitution, his successor must be elected at the general election held next before the date of the expiration of his term. *Russell v. State*, 171 Ind. 623.

36. The legislature may change the time of electing township officers and thereby extend the term of such officers beyond the time for which they were elected. *State v. Menaugh*, 151 Ind. 260. The legislature has authority to create county and township offices and to fix the qualifications of the holders. *State v. Goldhait*, 172 Ind. 210. It may be provided by law that offices created by the legislature may be filled by appointment. *State v. Hall*, 173 Ind. 145.

37. A prosecuting attorney is neither a state nor a county officer and therefore can not be removed under Secs. 7 and 8 but may be removed under Sec. 12 of Art. VII. *State v. Patterson*, 181 Ind. 660.

## ARTICLE 7.

## JUDICIAL.

**SECTION 1.** The judicial power of the State shall be vested in a Supreme Court, Circuit Courts and such other courts as the General Assembly may establish.<sup>38</sup>

**SEC. 2.** The Supreme Court shall consist of not less than five (5) nor more than eleven (11) judges, a majority of whom shall form a quorum, and they shall hold their offices for six years, if they so long behave well. Any vacancy caused by death or resignation shall be filled by the Governor as is now provided by the Constitution; but any increase in the number of judges shall not be filled by appointment, but by election at the next general election after any increase is ordered.<sup>39</sup>

**SEC. 3.** The State shall be divided into as many districts as there are Judges of the Supreme Court; and such districts shall be formed of contiguous territory, as nearly equal in population, as, without dividing a county, the same can be made. One of said Judges shall be elected from each district, and reside therein; but said Judges shall be elected by the electors of the State at large.<sup>40</sup>

38. As adopted in 1851, the word "inferior" was used instead of the word "other" where it now occurs in this section. The amendment to this section was proposed by the General Assembly of 1877, re-adopted by the General Assembly of 1879, and voted on at the township election of April 5, 1880. The total number of votes cast at the township election was 380,771; the total number of votes cast in favor of the amendment was 175,612, and the total number of votes cast against the amendment was 141,296. In *State v. Swift*, 69 Ind. 505, decided at the May term, 1880, the Supreme Court held that the amendment had not been adopted because it had not received a majority of the votes cast at the election. Accordingly, the amendment was re-submitted to the voters at a special election held on March 14, 1881. There were 172,900 votes cast at the election, and 116,570 votes were cast in favor of the amendment and 41,434 votes were cast against it. On March 24, 1881, Governor Albert G. Porter issued his proclamation declaring the amendment in force.

At the present time there is a supreme court, an appellate court of 6 judges, 80 circuit courts, 14 superior courts, 2 criminal courts, 2 probate courts and one juvenile court in the state.

39. This amendment is probably in force by virtue of the ruling of Supreme Court in the case of *In re Todd*, 208 Ind. 168. As adopted in 1851, section 2 provided: "The Supreme Court shall consist of not less than three, nor more than five Judges; a majority of whom shall form a quorum. They shall hold their offices for six years, if they so long behave well." The present amendment of this section was proposed by the General Assembly of 1897 and re-adopted by the General Assembly of 1899. It was submitted to the voters at the general election held on November 6, 1900. The total number of votes in favor of the amendment was 314,710; the total number of votes cast against the amendment was 178,960; and the total number of votes cast at the general election of 1900 was 664,094.

40. The following table shows the counties embraced in each of the 5 districts into which the state is divided and the population of each district:

**First District.**—Clay, Daviess, Dubois, Gibson, Greene, Knox, Martin, Monroe, Morgan, Orange, Owen, Parke, Perry, Pike, Posey, Spencer, Sullivan, Vanderburgh and Warrick. Population, 540,954.

**Second District.**—Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Ohio, Ripley, Rush, Scott, Shelby, Switzerland and Washington. Population, 365,560.

SEC. 4. The Supreme Court shall have jurisdiction, co-extensive with the limits of the State, in appeals and writs of error, under such regulations and restrictions as may be prescribed by law. It shall also have such original jurisdiction as the General Assembly may confer.

SEC. 5. The Supreme Court shall, upon the decision of every case, give a statement in writing of each question arising in the record of such case, and the decision of the Court thereon.

SEC. 6. The General Assembly shall provide, by law, for the speedy publication of the decisions of the Supreme Court, made under this Constitution; but no Judge shall be allowed to report such decisions.<sup>41</sup>

SEC. 7. There shall be elected by the voters of the State, a Clerk of the Supreme Court, who shall hold his office four years, and whose duties shall be prescribed by law.

SEC. 8. The Circuit Courts shall each consist of one Judge and shall have such civil and criminal jurisdiction as may be prescribed by law.

SEC. 9. The State shall, from time to time, be divided into judicial circuits; and a judge for each circuit shall be elected by the voters thereof. He shall reside within the circuit, and shall hold his office for the term of six years, if he so long behave well.

SEC. 10. The General Assembly may provide, by law, that the judge of one circuit may hold the Courts of another circuit, in cases of necessity or convenience; and in case of temporary inability of any Judge, from sickness or other cause, to hold the Courts in his circuit, provision may be made, by law, for holding such courts.

SEC. 11. There shall be elected, in each judicial circuit, by the voters thereof, a Prosecuting Attorney, who shall hold his office for two years.

SEC. 12. Any Judge or prosecuting Attorney, who shall have been convicted of corruption or other high crime, may, on information in the name of the State, be removed from office by the Supreme Court, or in such other manner as may be prescribed by law.

SEC. 13. The judges of the Supreme Court and Circuit Courts shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office.<sup>42</sup>

**Third District.**—Boone, Clinton, Fountain, Hamilton, Hendricks, Johnson, Marlon, Montgomery, Putnam, Tippecanoe, Tipton, Vermillion, Vigo, Warren and White. Population, 858,788.

**Fourth District.**—Adams, Allen, Blackford, Delaware, Fayette, Franklin, Grant, Hancock, Henry, Howard, Huntington, Jay, Madison, Randolph, Union, Wayne, Wells and Whitley. Population, 729,201.

**Fifth District.**—Benton, Carroll, Cass, Dekalb, Elkhart, Fulton, Jasper, Kosciusko, Lagrange, Lake, LaPorte, Marshall, Miami, Newton, Noble, Porter, Pulaski, St. Joseph, Starke, Steuben and Wabash. Population, 933,293.

41. The decisions of the Supreme Court are published in volumes known as the "Indiana Reports." Prior to the adoption of the present Constitution, the Supreme Court reports were edited and published by Isaac Blackford, one of the judges of the Supreme Court.

42. The salary of a judge of the Supreme Court is \$10,000, and of circuit judges \$4,200, payable out of the state treasury.

SEC. 14. A competent number of Justices of the Peace shall be elected, by the voters in each township in the several counties. They shall continue in office four years, and their powers and duties shall be prescribed by law.

SEC. 15. All judicial officers shall be conservators of the peace in their respective jurisdictions.

SEC. 16. No person elected to any judicial office, shall, during the term for which he shall have been elected, be eligible to any office of trust or profit, under the State, other than a judicial office.

SEC. 17. The General Assembly may modify, or abolish, the Grand Jury system.

SEC. 18. All criminal prosecutions shall be carried on, in the name, and by the authority, of the State; and the style of all process shall be: "The State of Indiana."

SEC. 19. Tribunals of conciliation may be established, with such powers and duties as shall be prescribed by law; or the powers and duties of the same may be conferred upon other Courts of Justice; but such tribunals or other Courts, when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference, and agree to abide the judgment of such tribunal or Court.

SEC. 20. The General Assembly, at its first session after the adoption of this Constitution, shall provide for the appointment of three Commissioners, whose duty it shall be to revise, simplify, and abridge, the rules, practice, pleadings, and forms of the Courts of justice. And they shall provide for abolishing the distinct forms of action at law, now in use; and that justice shall be administered in a uniform mode of pleading, without distinction between law and equity. And the General Assembly may, also, make it the duty of said Commissioners to reduce into a systematic code, the general statute law of the State; and said Commissioners shall report the result of their labors to the General Assembly, with such recommendations and suggestions, as to abridgement and amendment, as to said Commissioners may seem necessary or proper. Provision shall be made, by law, for filling vacancies, regulating the tenure of office, and the compensation of said Commissioners.

SEC. 21. [Stricken out by constitutional amendment of 1932.]<sup>43</sup>

43. As adopted in 1851, this section read as follows: "Every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice." The following amendment to this section was proposed by the General Assembly of 1897 and re-adopted by the General Assembly of 1899: "The General Assembly shall by law prescribe what qualifications shall be necessary for admission to practice law in all courts of justice." This proposed amendment was submitted to the voters at the general election held on November 6, 1900. The total number of votes cast at the general election of 1900 was 664,094; the total number of votes cast in favor of the amendment was 240,031; and the total number of votes cast against the amendment was 144,072. In 1901 in the case known as *In re Denny*, 156 Ind. 104, the Supreme Court held that the proposed amendment had not been ratified because it did not receive the affirmative vote of a majority of all the voters



## ARTICLE 8.

## EDUCATION.

SECTION 1. Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government; it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all.<sup>44</sup>

SEC. 2. The Common School fund shall consist of the Congressional Township fund, and the lands belonging thereto;

The Surplus Revenue fund;

The Saline fund and the lands belonging thereto;

The Bank Tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the State Bank of Indiana;

The fund to be derived from the sale of county seminaries, and the moneys and property heretofore held for such Seminaries; from the fines assessed for breaches of the penal laws of the State; and from all forfeitures which may accrue;

All lands and other estate which shall escheat to the State, for want of heirs or kindred entitled to the inheritance;

who voted at the general election held on November 6, 1900. The General Assembly of 1903 proposed and the General Assembly of 1905 re-adopted the same amendment which had been defeated at the general election of November 6, 1900. This proposed amendment was submitted to the voters at the general election held on November 6, 1906. The total number of votes cast at the general election of 1906 was 589,044; the total number of votes cast in favor of the amendment was 39,061; and the total number of votes cast against the amendment was 12,128. The General Assembly of 1907 proposed and the General Assembly of 1909 re-adopted the same amendment which had been defeated at the general election of November 6, 1900, and the general election held on November 6, 1906. This proposed amendment was submitted to the voters at the general election held on November 8, 1910. The total number of votes cast at the general election of 1910 was 627,133; the total number of votes cast in favor of the amendment was 60,357; and the total number of votes cast against the amendment was 18,494. In 1912 in the case known as *In re Boswell*, 179 Ind. 292, the supreme court held that the proposed amendment had been rejected because it did not receive the affirmative votes of a majority of all of the voters who voted at the general election held on November 8, 1910. The following amendment to this section was proposed by the General Assembly of 1927 and re-adopted by the General Assembly of 1929: "That the Constitution of the State of Indiana be amended by striking out all of section 21 of Article VII." This proposed amendment was submitted to the voters at the general election held on November 8, 1932. The total number of votes cast at the general election of 1932 was 1,600,484; the total number of votes cast in favor of the amendment was 439,949; and the total number of votes cast against the amendment was 236,613. In 1935 in the case known as *In re Todd*, 208 Ind. 168, the supreme court held that a proposed amendment to the Constitution is ratified if it receives the affirmative votes of a majority of the voters who vote on the proposed amendment even though the affirmative vote so cast is not a majority of the voters who voted at the election at which the amendment is submitted. Since the proposed amendment submitted at the general election of November 8, 1932, received a majority of the votes cast on the amendment, it was ratified.

44. The compulsory school law is not in violation of this section. *State v. Bailey*, 157 Ind. 324. Local school corporations have authority to levy a tax for the support of common schools. *Shepardson v. Gillette*, 133 Ind. 125.

All lands that have been, or may hereafter be, granted to the State, where no special purpose is expressed in the grant, and the proceeds of the sales thereof; including the proceeds of the sales of the swamp lands, granted to the State of Indiana by the act of Congress of the twenty-eighth of September, eighteen hundred and fifty, after deducting the expense of selecting and draining the same;

Taxes on the property of corporations, that may be assessed by the General Assembly for common school purposes.

SEC. 3. The principal of the Common School fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of Common Schools, and to no other purpose whatever.

SEC. 4. The General Assembly shall invest, in some safe and profitable manner, all such portions of the Common School fund, as have not heretofore been entrusted to the several counties; and shall make provision, by law, for the distribution, among the several counties, of the interest thereof.

SEC. 5. If any county shall fail to demand its proportion of such interest, for Common School purposes, the same shall be reinvested, for the benefit of such county.

SEC. 6. The several counties shall be held liable for the preservation of so much of the said fund as may be entrusted to them, and for the payment of the annual interest thereon.

SEC. 7. All trust funds, held by the State, shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created.

SEC. 8. The General Assembly shall provide for the election, by the voters of the State, of a State Superintendent of Public Instruction; who shall hold his office for two years, and whose duties and compensation shall be prescribed by law.

## ARTICLE 9.

### STATE INSTITUTIONS.

SECTION 1. It shall be the duty of the General Assembly to provide, by law, for the support of Institutions for the education of the Deaf and Dumb, and of the Blind; and also, for the treatment of the Insane.

SEC. 2. The General Assembly shall provide houses of refuge, for the correction and reformation of juvenile offenders.

SEC. 3. The county boards shall have power to provide farms, as an asylum for those persons, who, by reason of age, infirmity, or other misfortune, have claims upon the sympathies and aid of society.

## ARTICLE 10.

## FINANCE.

SECTION 1. The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious or charitable purposes, as may be specially exempted by law.<sup>45</sup>

SEC. 2. All the revenue derived from the sale of any of the public works belonging to the State, and from the net annual income thereof, and any surplus that may, at any time, remain in the treasury, derived from taxation for general State purposes, after the payment of the ordinary expenses of the government, and of the interest on bonds of the State, other than bank bonds, shall be annually applied, under the direction of the General Assembly, to the payment of the principal of the public debt.

SEC. 3. No money shall be drawn from the treasury, but in pursuance of appropriations made by law.

SEC. 4. An accurate statement of the receipts and expenditures of the public money, shall be published with the laws of each regular session of the General Assembly.

SEC. 5. No law shall authorize any debt to be contracted, on behalf of the State, except in the following cases: To meet casual deficits in the revenue; to pay the interest on the State debt; to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for the public defense.

SEC. 6. No county shall subscribe for stock in any incorporated company, unless the same be paid for at the time of such subscription; nor shall any county loan its credit to any incorporated company, nor borrow money for the purpose of taking stock in any such company; nor shall the General Assembly ever, on behalf of the State, assume the debts of any county, city, town or township, nor of any corporation whatever.

SEC. 7. No law or resolution shall ever be passed by the General Assembly of the State of Indiana, that shall recognize any liability of this State to pay or redeem any certificate of stock issued in pursuance of an act entitled "An act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," passed January 19, 1846, and an act supplemental to said act, passed January 29, 1847, which, by the provisions of the said acts, or either of them, shall be payable exclusively from the proceeds of the canal lands, and the tolls and revenues of the canal in said acts mentioned, and no such certificate or stocks shall ever be paid by this State.<sup>46</sup>

45. Taxes must be uniform and equal throughout the unit in which they are levied. *Board v. State*, 155 Ind. 604. The law providing for the deduction of mortgage indebtedness is valid. *State v. Smith*, 158 Ind. 543.

46. Section 7 was not a part of the Constitution as originally adopted. It was proposed by the General Assembly of 1871, readopted by the General Assembly

SEC. 8. The General Assembly may levy and collect a tax upon income, from whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law.<sup>47</sup>

## ARTICLE 11.

### CORPORATIONS.

SECTION 1. The General Assembly shall not have power to establish, or incorporate, any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this Constitution.

SEC. 2. No banks shall be established otherwise than under a general banking law, except as provided in the fourth section of this article.

SEC. 3. If the General Assembly shall enact a general banking law, such law shall provide for the registry and countersigning, by an officer of State, of all paper credit designed to be circulated as money; and ample collateral security, readily convertible into specie, for the redemption of the same in gold or silver, shall be required; which collateral security shall be under the control of the proper officer or officers of State.

SEC. 4. The General Assembly may also charter a bank with branches, without collateral security, as required in the preceding section.

SEC. 5. If the General Assembly shall establish a bank with branches, the branches shall be mutually responsible for each other's liabilities, upon all paper credit issued as money.

SEC. 6. [Stricken out by constitutional amendment ratified by the electors at the general election held November 5, 1940.]<sup>48</sup>

SEC. 7. All bills or notes issued as money shall be, at all times, redeemable in gold or silver; and no law shall be passed, sanctioning,

of 1872, convened in special session, and was ratified at a special election held on February 18, 1873. There were 158,400 votes cast in favor of the amendment and 1,030 votes cast against it. On March 7, 1873, Governor Thomas A. Hendricks issued his proclamation declaring the amendment in force.

47. Section 8 was not a part of the Constitution as originally adopted. It was proposed by the General Assembly of 1923; readopted by the General Assembly of 1925; and was submitted to the voters at the general election held on November 2, 1926. The total number of votes cast at the general election of 1926 was 1,052,994; the total number of votes cast in favor of the amendment was 239,734; and the total number of votes cast against the amendment was 212,224. The General Assembly of 1927 proposed and the General Assembly of 1929 re-adopted the same amendment which had been voted upon at the general election of November 2, 1926. This proposed amendment was submitted to the voters at the general election held on November 8, 1932. The total number of votes cast at the general election of 1932 was 1,600,484; the total number of votes cast in favor of the amendment was 701,045; and the total number of votes cast against the amendment was 209,076. By virtue of the ruling in the case of *In re Todd*, 208 Ind. 168, this amendment is probably in force.

48. As adopted in 1851, this section read as follows: "The stockholders in every bank or banking company shall be individually responsible, to an amount, over and above their stock, equal to their respective shares of stock, for all debts or liabilities of said bank or banking company." The following amendment to this



directly or indirectly, the suspension, by any bank or banking company, of specie payments.

SEC. 8. Holders of bank notes shall be entitled, in case of insolvency, to preference of payment over all other creditors.

SEC. 9. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed, by law, to individuals loaning money.

SEC. 10. [Stricken out by constitutional amendment ratified by the electors at the general election held November 5, 1940.]<sup>49</sup>

SEC. 11. The General Assembly is not prohibited from investing the trust funds in a bank with branches; but in case such investment, the safety of the same shall be guaranteed by unquestionable security.

SEC. 12. The State shall not be a stockholder in any bank, after the expiration of the present bank charter; nor shall the credit of the State ever be given, or loaned, in aid of any person, association or corporation; nor shall the State hereafter become a stockholder in any corporation or association.

SEC. 13. Corporations, other than banking, shall not be created by special act, but may be formed under general laws.<sup>50</sup>

SEC. 14. Dues from corporations shall be secured by such individual ability of the stockholders, or other means, as may be prescribed by law.<sup>51</sup>

section was proposed by the General Assembly of 1937 and re-adopted by the General Assembly of 1939: "That the Constitution of the State of Indiana be amended by striking out Sec. 6 of Article 11." This proposed amendment was submitted to the voters at the general election held on November 5, 1940. Pursuant to Chapter 59, page 404 of the Acts of 1939, the secretary of state certified to the governor the vote on this amendment: Ayes: 355,578; Noes: 267,589. There were 1,729,409 votes cast at the election. Pursuant to said act, the governor issued his proclamation, on November 22, 1940. In 1935 in the case known as *In re Todd*, 208 Ind. 168, the supreme court held that a proposed amendment to the Constitution is ratified if it receives the affirmative votes of a majority of the voters who vote on the proposed amendment even though the affirmative vote so cast is not a majority of the voters who voted at the election at which the amendment is submitted. Since the proposed amendment received a majority of the votes cast on the amendment, it was ratified.

49. As adopted in 1851, this section read as follows: "Every bank or banking company, shall be required to cease all banking operations, within twenty years from the time of its organization, and promptly thereafter to close its business." The following amendment to this section was proposed by the General Assembly of 1937 and re-adopted by the General Assembly of 1939: "That the Constitution of the State of Indiana be amended by striking out Sec. 10 of Article 11." This proposed amendment was submitted to the voters at the general election held on November 5, 1940. Pursuant to Chapter 59, page 404 of the Acts of 1939, the secretary of state certified to the governor the vote on this amendment: Ayes: 325,280; Noes: 242,846. There were 1,729,409 votes cast at the election. Pursuant to said act, the governor issued his proclamation on November 22, 1940. Under the decision of the Supreme Court in the case of *In re Todd*, 208 Ind. 168, this amendment having received a majority of the votes cast on the amendment, it was ratified.

50. This section applies to municipal corporations. *Town of Longview v. City of Crawfordsville*, 164 Ind. 117.

## ARTICLE 12.

## MILITIA.

SECTION 1. The militia shall consist of all able-bodied male persons, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or of this State; and shall be organized, officered, armed, equipped, and trained, in such manner as may be provided by law.<sup>52</sup>

SEC. 2. The Governor shall appoint the Adjutant, Quartermaster and Commissary Generals.

SEC. 3. All militia officers shall be commissioned by the Governor, and shall hold their offices not longer than six years.

SEC. 4. The General Assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and fix the rank of all staff officers.

SEC. 5. The militia may be divided into classes of sedentary and active militia, in such manner as shall be prescribed by law.

SEC. 6. No person, conscientiously opposed to bearing arms, shall be compelled to do militia duty; but such person shall pay an equivalent for exemption; the amount to be prescribed by law.

## ARTICLE 13.

## POLITICAL AND MUNICIPAL CORPORATIONS.

SECTION 1. No political or municipal corporation in this State shall ever become indebted in any manner or for any purpose to an amount in the aggregate exceeding two per centum on the value of the taxable property within such corporation, to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness; and all bonds or obligations, in excess of such amount, given by such corporation shall be void: *Provided*, That in time of war,

51. As adopted in 1851, the section read as follows: "Dues from corporations, other than banking, shall be secured by such individual liability of the corporators, or other means, as may be prescribed by law." The present amendment was proposed by the General Assembly of 1937, re-adopted by the General Assembly of 1939, and voted on at the general election held on November 5, 1940. The total number of votes cast in favor of the amendment was 344,262, and the total number of votes cast against the amendment was 229,370. There were 1,729,409 votes cast at the election. Under the decision of the Supreme Court in the case of *In re Todd*, 208 Ind. 168, this amendment having received a majority of the votes cast on the amendment, it was ratified. On November 22, 1940, Governor M. Clifford Townsend issued his proclamation pursuant to Chapter 59, page 404 of the Acts of 1939.

52. As adopted in 1851 the word "white" occurred before the word "male," thus restricting compulsory service in the national guard to white male persons. The amendment to this section was proposed by the General Assembly of 1933, re-adopted by the General Assembly of 1935, and was voted on at the general election of November 3, 1936. There were 426,031 votes cast in favor of the amendment and 398,201 votes cast against it. On December 14, 1936, Governor Paul V. McNutt issued his proclamation declaring the amendment in force.

foreign invasion, or other great public calamity, on petition of a majority of the property owners, in number and value, within the limits of such corporation, the public authorities, in their discretion, may incur obligations necessary for the public protection and defense, to such an amount as may be requested in such petition.<sup>53</sup>

## ARTICLE 14.

### BOUNDARIES.

SECTION 1. In order that the boundaries of the State may be known and established, it is hereby ordained and declared, that the State of Indiana is bounded, on the East, by the meridian line which forms the western boundary of the State of Ohio; on the South, by the Ohio River, from the mouth of the Great Miami River to the mouth of the Wabash River; on the West, by a line drawn along the middle of the Wabash River, from its mouth to a point where a due north line, drawn from the town of Vincennes, would last touch the northwestern shore of said Wabash River; and, thence, by a due north line, until the same shall intersect an east and west line, drawn through a point ten miles north

53. The original Art. XIII as adopted in 1851 was stricken out and the present Article inserted in 1881. The original article was as follows:

Section 1. No negro or mulatto shall come into or settle in, the State, after the adoption of this Constitution.

Sec. 2. All contracts made with any negro or mulatto coming into the State, contrary to the provisions of the foregoing section, shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the State, shall be fined in any sum not less than ten dollars, nor more than five hundred dollars.

Sec. 3. All fines which may be collected for a violation of the provisions of this article, or of any law which may hereafter be passed for the purpose of carrying the same into execution, shall be set apart and appropriated for the colonization of such negroes and mulattoes, and their descendants, as may be in the State at the adoption of this Constitution, and may be willing to emigrate.

Sec. 4. The General Assembly shall pass laws to carry out the provisions of this article.

The present amendment was proposed by the General Assembly of 1877, re-adopted by the General Assembly of 1879, and voted on at the township election of April 5, 1880. The total number of votes cast at the township election was 380,771; the total number of votes cast in favor of the amendment was 176,981; and the total number of votes cast against the amendment was 126,999. In *State v. Swift*, 69 Ind. 505, decided at the May term, 1880, the Supreme Court held that the amendment had not been adopted because it had not received a majority of the votes cast at the election. Accordingly, the amendment was re-submitted to the voters at a special election held on March 14, 1881. There were 172,900 votes cast at the election, and 126,221 votes were cast in favor of the amendment and 36,435 votes were cast against it. On March 24, 1881, Governor Albert G. Porter issued his proclamation declaring the amendment in force.

Indebtedness created by the improvement or repair of streets does not come within this article. *Quill v. Indianapolis*, 124 Ind. 292; *New Albany v. McCulloch*, 127 Ind. 500; *Cason v. City of Lebanon*, 153 Ind. 567. Bonds issued for the improvement of highways, are not debts of the county or township. *Smith v. Board*, 173 Ind. 364. This article applies to bonds issued by cities and towns to build school-houses. *Town of Winamac v. Huddleston*, 132 Ind. 217; *Wilcoxon v. City of Bluffton*, 153 Ind. 267. The debt of a school city is not considered as a part of the corresponding civil city. *Heine v. City of Terre Haute*, 161 Ind. 44; *Campbell v. City of Indianapolis*, 155 Ind. 186. The issuance of gravel road bonds is not governed by this section limiting indebtedness. *Brown v. Guthrie*, 185 Ind. 669.

of the southern extreme of Lake Michigan; on the North, by said east and west line, until the same shall intersect the first mentioned meridian line, which forms the western boundary of the State of Ohio.<sup>54</sup>

SEC. 2. The State of Indiana shall possess jurisdiction and sovereignty co-extensive with the boundaries declared in the preceding section; and shall have concurrent jurisdiction, in civil and criminal cases, with the State of Kentucky on the Ohio River, and with the State of Illinois on the Wabash River, so far as said rivers form the common boundary between this State and said States respectively.

## ARTICLE 15.

### MISCELLANEOUS.

SECTION 1. All officers, whose appointment is not otherwise provided for in this Constitution, shall be chosen in such manner as now is, or hereafter may be, prescribed by law.<sup>55</sup>

SEC. 2. When the duration of any office is not provided for by this Constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four (4) years, nor shall the term of office or salary of any officer fixed by this Constitution or by law be increased during the term for which such officer was elected or appointed.<sup>56</sup>

SEC. 3. Whenever it is provided in this Constitution, or in any law which may be hereafter passed, that any officer, other than a member of the General Assembly, shall hold his office for any given term, the same shall be construed to mean that such officer shall hold his office for such term, and until his successor shall have been elected and qualified.

54. The boundaries of Indiana were not fixed by the adoption of the state Constitution, but by Congress and their recital in the Constitution is merely a memorandum thereof. *Watts v. Evansville, etc. R. Co.*, 123 N. E. 709. Low-water mark on the north side of the Ohio river is the southern boundary of the state. *Welsh v. State*, 126 Ind. 71.

55. The legislature can not appoint officers. *State v. Hyde*, 121 Ind. 20; *State v. Peele*, 121 Ind. 495; *State v. Gorby*, 122 Ind. 17.

56. This amendment is probably in force by virtue of the ruling of the Supreme Court in the case of *In re Todd*, 208 Ind. 168. As adopted in 1851, section 2 provided: "When the duration of any office is not provided for by this Constitution, it may be declared by law; and, if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four years." The present amendment of this section was proposed by the General Assembly of 1923 and re-adopted by the General Assembly of 1925. It was submitted to the voters at the general election on November 2, 1926. The total number of votes cast in favor of the amendment was 182,456; and the total number of votes cast against the amendment was 177,748; and the total number of votes cast at the general election was 1,052,994. This section does not apply where an office is created but no tenure is fixed, *Clem v. State*, 33 Ind. 418, nor does it prevent an officer from holding over until his successor is elected and qualified. *State v. Harrison*, 113 Ind. 434.



SEC. 4. Every person elected or appointed to any office under this Constitution, shall, before entering on the duties thereof, take an oath or affirmation, to support the Constitution of this State, and of the United States, and also an oath of office.

SEC. 5. There shall be a Seal of State, kept by the Governor for official purposes, which shall be called the Seal of the State of Indiana.

SEC. 6. All commissions shall issue in the name of the State, shall be signed by the Governor, sealed with the State Seal, and attested by the Secretary of State.

SEC. 7. No county shall be reduced to an area less than four hundred square miles; nor shall any county, under that area, be further reduced.

SEC. 8. No lottery shall be authorized, nor shall the sale of lottery tickets be allowed.

SEC. 9. The following grounds owned by the State in Indianapolis, namely: The State House Square, the Governor's Circle, and so much of outlot numbered one hundred and forty-seven, as lies north of the arm of the Central Canal,<sup>57</sup> shall not be sold or leased.

SEC. 10. It shall be the duty of the General Assembly, to provide for the permanent enclosure and preservation of the Tippecanoe Battle Ground.

## ARTICLE 16.

### AMENDMENTS.

SECTION 1. Any amendment or amendments to this Constitution, may be proposed in either branch of the General Assembly; and, if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and referred to the General Assembly to be chosen at the next general election; and if, in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the State, and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner, that the electors shall vote for or against each of such amendments separately; and while an amendment or amendments, which shall have been agreed upon by one General Assembly, shall be awaiting the action of a succeeding General Assembly, or of the electors, no additional amendment or amendments shall be proposed.<sup>58</sup>

<sup>57</sup> Outlot No. 147 is now Camp Sullivan, popularly known as Military Park and is located in the City of Indianapolis.

<sup>58</sup> Under the rulings of the supreme court made prior to 1935, a proposed amendment, to be adopted, must be ratified by a majority of the electors of the

## SCHEDULE.

This Constitution, if adopted, shall take effect on the first day of November, in the year one thousand eight hundred and fifty-one, and shall supersede the Constitution adopted in the year one thousand eight hundred and sixteen. That no inconvenience may arise from the change in the government, it is hereby ordained as follows:

First. All laws now in force, and not inconsistent with this Constitution, shall remain in force, until they shall expire or be repealed.

Second. All indictments, prosecutions, suits, pleas, complaints, and other proceedings, pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari, and injunctions, shall be carried on in the several courts, in the same manner as is now provided by law.

Third. All fines, penalties, and forfeitures, due or accruing to the State, or to any county therein, shall inure to the State, or to such county, in the manner prescribed by law. All bonds executed to the State, or to any officer, in his official capacity, shall remain in force and inure to the use of those concerned.

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State voting at the election at which the amendment is submitted. If the amendment is submitted at a general election, it must receive a majority of the votes cast at the general election, and if submitted at a special election, it must receive a majority of the votes cast at the special election. *State v. Smith*, 69 Ind. 505; *In re Denney*, 156 Ind. 104; *In re Boswell*, 179 Ind. 292. In 1935, in the case known as *In re Todd*, 208 Ind. 168, the supreme court held that if a proposed amendment is submitted to the voters and if more votes are cast in favor of than in opposition to the amendment, the amendment is ratified even though the total vote cast in favor of the amendment is less than a majority of the total number of votes cast at the election at which the amendment is voted on. If an amendment is submitted to the electors and does not receive a majority of the votes cast, it is rejected. *In re Boswell*, 179 Ind. 292. The legislature has no authority to draft a new constitution or amendments to an existing constitution and submit them to the voters at the next general election. *Ellingham v. Dye*, 178 Ind. 336.

Under the provisions of Art. XVI, 419 amendments to the Constitution have been proposed since 1851. Many of these amendments were identical in the purpose they were designed to attain and accordingly comparatively few actually dissimilar amendments have been suggested. Of the 419 amendments proposed, 238 were defeated in the House in which they were introduced; 1 was passed by the House in which it was introduced but was never transmitted to the second House; 51 were adopted by the House in which they were introduced but were defeated in the second House; 4 were adopted by both Houses of one General Assembly but were never considered by either house of the succeeding general assembly; 35 were adopted by both Houses of one General Assembly but were defeated in the first House in which they were reconsidered at the succeeding General Assembly; 27 were adopted by both Houses of one General Assembly and by the first House by which they were reconsidered at the succeeding General Assembly, but were defeated in the second House; 24 were adopted by both Houses of one General Assembly, were then submitted to the voters, but were held invalid before the election was held; 1 was adopted by both Houses of one General Assembly, passed both Houses of the second General Assembly in separate resolutions, but was held invalid; 1 was adopted by both Houses of one General Assembly, passed the first House by which it was reconsidered at the succeeding General Assembly but was not transmitted to the second House of the second General Assembly; 1 was adopted by both Houses of two succeeding General Assemblies but was never submitted to the voters.

Fourth. All acts of incorporation for municipal purposes shall continue in force under this Constitution, until such time as the General Assembly shall, in its discretion, modify or repeal the same.

Fifth. The Governor, at the expiration of the present official term, shall continue to act, until his successor shall have been sworn into office.

Sixth. There shall be a session of the General Assembly, commencing on the first Monday of December, in the year one thousand eight hundred and fifty-one.

Seventh. Senators now in office and holding over, under the existing Constitution, and such as may be elected at the next general election, and the Representatives then elected, shall continue in office until the first general election under this Constitution.

Eighth. The first general election under this Constitution, shall be held in the year one thousand eight hundred and fifty-two.

Ninth. The first election for Governor, Lieutenant-Governor, Judges of the Supreme Court and Circuit Courts, Clerks of the Supreme Court, Prosecuting Attorney, Secretary, Auditor and Treasurer of State, and State Superintendent of Public Instruction, under this Constitution, shall be held at the general election in the year one thousand eight hundred and fifty-two; and such of said officers as may be in office when this

The following amendments have been submitted to the voters and each received more votes for than against but not a majority of the votes cast in the election at which they were submitted; under the decision in the Todd case such majority of votes was not necessary for ratification. The date of the election, the vote for and against each amendment is given.

Lawyers' qualifications, Nov. 6, 1900: For 240,031; against 144,072.

Supreme Court Membership, Nov. 6, 1900: For 314,710; against 178,960.

Lawyers' qualifications, Nov. 6, 1906: For 39,061; against 12,128.

Lawyers' qualifications, Nov. 8, 1910: For 60,357; against 18,494.

Registration of voters, Nov. 2, 1926: For 198,579; against 184,684.

Salaries and terms—Increase, Nov. 2, 1926: For 182,456; against 177,748.

Income tax, Nov. 2, 1926: For 239,734; against 212,224.

Income tax, Nov. 6, 1932: For 701,045; against 209,076.

Lawyers' qualifications, Nov. 6, 1932: For 439,949; against 236,613.

State militia, Nov. 3, 1936: For 426,031; against 398,201.

Stockholders' liability, Nov. 5, 1940: For 355,578; against 267,589.

Limitation on banks, Nov. 5, 1940: For 325,280; against 242,846.

Corporation dues, Nov. 5, 1940: For 344,262; against 229,370.

Following are the amendments which have been submitted to the voters, giving the date of the election, the vote for and the vote against. All were defeated because the negative was larger than the affirmative vote.

Registration of voters, Sept. 6, 1921: For, 90,269; against, 110,333.

Enumeration and apportionment, Sept. 6, 1921: For, 76,963; against, 117,890.

Veto of appropriations, Sept. 6, 1921: For, 83,265; against, 101,790.

State officers' terms, Sept. 6, 1921: For, 74,177; against, 113,300.

County officers' terms, Sept. 6, 1921: For, 82,389; against, 115,139.

Prosecuting attorneys' terms, Sept. 6, 1921: For, 76,587; against, 116,683.

Lawyers' qualifications, Sept. 6, 1921: For, 78,431; against, 117,479.

State Superintendent, appointment, Sept. 6, 1921: For, 46,023; against, 149,294.

Taxation, Sept. 6, 1921: For, 31,786; against, 166,186.

Income tax, Sept. 6, 1921: For, 39,005; against, 157,827.

Militia, Sept. 6, 1921: For, 55,027; against, 142,909.

Salaries, increase, Sept. 6, 1921: For, 80,191; against, 117,140.

Apportionment, Nov. 2, 1926: For, 183,828; against, 189,928.

Constitution shall go into effect, shall continue in their respective offices, until their successors shall have been elected and qualified.

Tenth. Every person elected by popular vote, and now in any office which is continued by this Constitution, and every person who shall be so elected to any such office before the taking effect of this Constitution (except as in this Constitution otherwise provided), shall continue in office, until the term for which such person has been, or may be, elected, shall expire: Provided, That no such person shall continue in office, after the taking effect of this Constitution, for a longer period than the term of such office in this Constitution prescribed.

Eleventh. On the taking effect of this Constitution, all officers thereby continued in office, shall, before proceeding in the further discharge of their duties, take an oath or affirmation to support this Constitution.

Twelfth. All vacancies that may occur in existing offices, prior to the first general election under this Constitution, shall be filled in the manner now prescribed by law.

Thirteenth. At the time of submitting this Constitution to the electors, for their approval or disapproval, the article numbered thirteen, in relation to Negroes and Mulattoes, shall be submitted as a distinct proposition, in the following form: "Exclusion and Colonization of Negroes and Mulattoes," "Aye" or "No." And if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this Constitution; otherwise, it shall be void, and form no part thereof.

Fourteenth. No article or section of this Constitution shall be submitted as a distinct proposition, to a vote of the electors, otherwise than as herein provided.

Fifteenth. Whenever a portion of the citizens of the counties of Perry and Spencer, shall deem it expedient to form, of the contiguous territory of said counties, a new county, it shall be the duty of those interested in the organization of such new county, to lay off the same, by proper metes and bounds, of equal portions, as nearly as practicable, not to exceed one-third of the territory of each of said counties. The proposal to create such new county shall be submitted to the voters of said counties, at a general election, in such manner as shall be prescribed by law. And if a majority of all the votes given at said election, shall be in favor of the organization of said new county, it shall be the duty of the General Assembly to organize the same, out of the territory thus designated.

Sixteenth. The General Assembly may alter or amend the charter of Clarksville, and make such regulations as may be necessary for carrying into effect the objects contemplated in granting the same; and the funds belonging to said town shall be applied, according to the intention of the grantor.

Done in Convention, at Indianapolis, the tenth day of February, in the year of our Lord one thousand eight hundred and fifty-one; and of the Independence of the United States, the seventy-fifth.



# Constitution of the United States, 1789\*

## PREAMBLE.

We the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION FOR THE UNITED STATES OF AMERICA.

## ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SEC. 2. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

[Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.] The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

\* Drafted by a convention which met at Philadelphia on May 25 and adjourned on September 17, 1787. The Constitution became operative when ratified by 9 of the 13 states. The government created by the Constitution began operations on March 4, 1789. All parts enclosed in brackets have been superseded by later amendments.

SEC. 3. [The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.]

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; [and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.]

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

SEC. 4. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the [first Monday in December], unless they shall by law appoint a different day.

SEC. 5. Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 6. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office.

SEC. 7. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the com-

mon defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standards of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post-offices and post-roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the Supreme Court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States; and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

SEC. 9. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.



The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or *ex post facto* law shall be passed.

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any State.

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.

SEC. 10. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II.

SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected, as follows:

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all persons voted for, and of the number of votes for each; which list they

shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the Representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.]

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural-born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States."

SEC. 2. The President shall be Commander-in-Chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective

offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SEC. 4. The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

### ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the



Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

#### ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State; and the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due.

SEC. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SEC. 4. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the Legislature, or of the Executive (when the Legislature can not be convened), against domestic violence.



## ARTICLE V.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments; which, in either case, shall be valid, to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided*, That no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

## ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

The ratification of the conventions of nine States, shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

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 AMENDMENTS TO THE CONSTITUTION OF THE  
UNITED STATES.<sup>1</sup>

## AMENDMENT I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

1. The first ten amendments were proposed by Congress on September 25, 1789, and were declared ratified in 1791.

## AMENDMENT II.

A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

## AMENDMENT III.

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

## AMENDMENT IV.

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## AMENDMENT V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

## AMENDMENT VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

## AMENDMENT VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact, tried by a jury, shall be otherwise re-examined, in any court of the United States, than according to the rules of the common law.

## AMENDMENT VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

## AMENDMENT IX.

The enumeration, in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

## AMENDMENT X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

## AMENDMENT XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.<sup>2</sup>

## AMENDMENT XII.

The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.<sup>3</sup>

2. Submitted by Congress on September 5, 1794, and declared adopted on January 8, 1798.

## AMENDMENT XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.<sup>4</sup>

## AMENDMENT XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

3. Submitted by Congress on December 12, 1803, declared in force on September 25, 1804.

4. Submitted by Congress on February 1, 1865, declared in force December 18, 1865.